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DEPARTMENT FOR NEA/ARP, NEA/RA, S/CT, EEB/ESC  
TREASURY FOR U/S LEVEY

E.O. 12958: N/A

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SUBJECT: FEEDBACK REQUESTED ON PENDING AML AMENDEMENT

REF: 09KUWAIT 1208

¶1. (SBU) Summary. US Customs representative and Econoff were invited on January 5th by Ministry of Commerce and Industry Anti-Money Laundering Unit (MoCI) to provide feedback on the pending AML amendment (Ref a). Post appreciates prompt input provided by Customs, Treasury, State/INL, and DoJ to facilitate that process. Even though the amended law is in parliament, the MoCI stated that, if necessary, changes could possibly be made as Minister Ahmed Al Haroun "has the ear of the Amir." Feedback provided focused specifically on whether the amendment adequately addressed FATF 40 9 recommendations. The amended law specifically criminalizes terrorist financing, establishes an outbound cash declaration procedure, changes the FIU to an independent body to which financial institutions are responsible for reporting Suspicious Transactions, clarifies the relationship between the FIU and the public prosecutors office, but lacks specific language describing the FIU's structure that could adversely impact the upcoming evaluation. The purpose of the meeting was to answer the request for feedback, but not to hinder the passage of the law. End Summary.

¶2. (SBU) Even though the amended law is a significant improvement to the current legislation, MoCI asked post to provide specific feedback in order for Kuwait to pass a law which would make them FATF compliant. In a meeting with MoCI officials and Kuwait Customs officers, Econoff and US Customs representatives applauded the progress made towards compliance, provided copies of the FATF 40 9 recommendations text, discussed EGMONT Group FIU definitions and comments received from Customs, Treasury, State/INL, and DoJ. The main concerns raised by USG officials related to Article 1: clear definitions, Article 3: related crimes, Articles 4, 5, 6, 7 and 8: the structure of the FIU and lines of authority, and Section eight: penalties.

¶3. (SBU) GoK officials appreciated post's efforts reviewing and discussing the information presented. They agreed to give priority to strengthening the language related to the FIU and maintaining the clauses related to outlawing terrorism financing. In discussions, it appeared that some USG concerns had been adequately addressed in the Arabic text, but not in the English translation. This was particularly true when reviewing definitions listed in article one. MoCI agreed, however, to add language where needed to strengthen the definitions particularly by expanding the list of competent ministries in Article one. Minor changes were also considered in the sections related to 'money laundering crimes' and 'penalties'.

¶4. (SBU) Comment. Post believes that the GoK's request for feedback is a valuable indication that the door is open for

further dialogue on financial crimes. Building upon the success of the recent AML conference, post was able to continue the momentum for open advisement and discussions about the sensitive subjects of terrorism financing and FATF with the GoK. In addition, Econoff has been invited to participate in a program planning session to help the GoK determine a financial crimes capacity building program schedule for the upcoming year. According to MoCI officials, Parliament will review the law article by article, and that it has been placed on a priority list. Econoff asked MoCI official Nidal Khuraibet if there was a concern that Parliamentarians could take steps to weaken specific provisions of the law. Khuraibet speculated that it is possible that some MPs, out of a misplaced concern that efforts to criminalize terrorist financing could adversely affect the religious requirement for charitable giving (Zakat) or out of concern regulation may impact their personal business, may try to make changes. End Comment.

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JONES